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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,746	01/12/2000	JEAN-GERARD SAINT-RAMON	6005-4018	5467

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EXAMINER

DEAK, LESLIE R

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/462,746

Applicant(s)

SAINT-RAMON ET AL.

Examiner

Leslie R. Deak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. PCT/FR99/01179.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the offset of the thermoplastic films in claims 6 and 7, the identifier of claim 12, and the identification marking of claim 14 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 1-21 are objected to because of the following informalities: The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 6 and 7 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. While the summary of the invention discloses the limitation of offsetting the two pieces of thermoplastic films, the specification lacks any further detail as to the nature of offset. It is unclear how this offset is created and how it affects the use of the claimed device.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 8 recites the limitation of a pouch “containing a liquid that has been sealed...” First, the recitation of a liquid is inferentially included in the claim. The recitation of the presence of the liquid needs to be positively recited within the claim. Second, the language of the claim is unclear as to what element of the claim is being sealed—the pouch or the liquid.

8. Claim 15 is generally vague as to the nature of the adaptation necessary to view the identification marking through the film.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 4,976,708 to Oshiyama et al. Oshiyama discloses a blood reservoir with a flexible container casing 10 defining a space 12 for storing blood therein (column 4, lines 46-49, FIG 1). The casing consists of two plastic sheets, 11a and 11b, that are welded together by heat seal or other welding, creating a seal that extends around the perimeter of the sheets (column 4, lines 47-56). There is a port 17 in the bottom of the container (a short side) that extends from the interior chamber through the seal to the outside (column 5, lines 22-25). There is also a port 18 in the top side (a short side) of the casing that extends from the interior, through the seal, to the exterior of the casing (column 6, lines 3-5).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2-4, 8-10, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,976,708 to Oshiyama et al in view of US 2,648,463 to Scherer. Oshiyama

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discloses the sealed pouch as claimed with the exception of a sealed peelable area near the ports. Scherer discloses a plastic container for packaging solids or liquids with areas of lesser tensile strength in the seal which are breakable when pulled apart, creating a peelable area for opening the container (column 1, lines 22-35). The container, comprised of opposed sheets of thermoplastic material (column 2, lines 24-28), forms a watertight seal for the contents until opened (column 1, lines 46-50). The seal may be formed on either of two ends of the container (column 3, lines 18-35). Scherer discloses the use of polymers and copolymers to create the peelable seal, which includes the wax polymer (column 3, lines 13-16). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to equip the flexible container comprised of two sealed sheets with openings disclosed by Oshiyama with the peelable openings disclosed by Scherer in order to create a container with a liquid-tight seal that can easily be opened by the user.

13. Further, Scherer discloses that his container may contain a liquid when the ends are sealed. In this use, one must seal one end of the container, dispose a fluid therein, and seal the second end of the container (column 3, lines 41-49). With regard to the shape of the sealing area, it would have been an obvious matter of design choice to form the sealable area into various geometric shapes since applicant has not disclosed that the triangular or v-shaped sealing area solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with a sealing area of any shape.

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14. Claims 5 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,976,708 to Oshiyama et al in view of US 6,079,184 to Cassou et al.

Oshiyama discloses the sealable pouch as claimed with the exception of a flared opening at the inlet or outlet. Cassou discloses a container or the storage of semen with two films of thermoplastics material 1 that are joined by a weld 2 which creates a pocket 3 for the storage of semen therein (column 3, lines 47-52, FIG 1). The pocket comprises a filler area 4 that is followed by a funnel 5 widening in a V-shape away from the bottom of the pocket (column 3, lines 57-63). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include a flared shape in the opening of the sealed pouch in order to allow for more smooth flow of the fluid into and out of the bag.

15. With regard to claims 17-19, Cassou discloses that his container is used for the storage of animal semen for artificial insemination (column 1, lines 10-14). Applicant's recitation as to the presence of pig semen within the container is merely a recitation of intended use and does not distinguish the claimed invention over the prior art.

Therefore, it would have been obvious to combine the sealed pouch with two openings as disclosed by Oshiyama with the container for artificial insemination disclosed by Cassou in order to provide a bag for filling and discharging animal semen for artificial insemination.

16. Claims 11-15 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,976,708 to Oshiyama et al in view of US 4,804,363 to Valeri.

The Oshiyama container discloses the container as claimed with the exception of

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providing a marking area. Marking areas and identifiers are well-known in the art of medical instruments and containers, as taught by Valeri. Valeri discloses an apparatus for storing blood, a biological fluid, which contains an identification marking 64 that is affixed to the bag 41. The identifier may take the form of a label which sets forth details about the source of the biological fluid contained therein. The user may place any other sort of marking on the label, which includes color markings (column 4, lines 29-37). As for applicant's claim to a marking surface on the container, any surface is capable of being a marking surface, and that limitation does not distinguish the claimed invention over the prior art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to provide the sealed container disclosed by Oshiyama with the identification markings disclosed by Valeri in order to easily identify the nature and contents of the liquid therein.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- a. US 6,165,161 York et al
 - i. Flexible container with peelable seals for separating compartments
- b. US 6,280,085 Beer
 - ii. Flexible package with peelable outer covering

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie R. Deak whose telephone number is 703-305-0200. The examiner can normally be reached on M-F 7:30-5:00, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on 703-308-5181. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

Ird 
March 8, 2002



**ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
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